THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.10782 OF 2006

BETWEEN:

Anjana Sponge, rep. by its proprietor M.Goverdhan

…Petitioner

vs.

National Mineral Development Corporation Ltd,Hyderabad and another

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.10782 OF 2006

ORAL ORDER

The writ petition is filed impeaching the proceedings of the respondent-Corporation issued by the 2nd respondent dated.05-04-2006, which reads as under:

> "This is to inform you that our tender No.COM-20(15)/2005-06 dated.09/06/2005 for sale of low grade iron ore(ROM) from our Kumaraswamy Mine stands cancelled. The EMD of Rs.Five Lakhs only deposited by you with your bid is being refunded to you shortly.
>
> We regret for the inconvenience caused to you, if any. We also thank you for your interest in participating in the above tender."

The petitioner responded to an invitation to tender, notified on 09-06-2005 for sale of low grade iron ore, run of mine (ROM) stock at Kumaraswamy Iron Ore Mine. The petitioner submitted its bid on 29-07-2005. The petitioner claims that its technical bid qualified at the technical assessment and was informed that the price bid would be opened on 19-12-2005 according to the information received by the petitioner from the respondent by the letter dated.13-12-2005. According to the petitioner the price bid was opened on 19-12-2005 and the offer of the petitioner found to be competitive. By a letter dated.24-01-2006 the petitioner was asked to keep its offer open up to 31-03-206. On 24-01-2006 the petitioner communicated its willingness to keep its offer open up to 31-03-2006. Thereafter, the petitioner received impugned communication cancelling the tender process. Asserting the cancellation to be arbitrary and illegal and without reasons, the writ petition is filed.

The 2nd respondent has filed a counter-affidavit. To the extent relevant in material to the core *lis,* the 2nd respondent states that subsequent to the petitioner's letter communicating willingness to keep its offer open, the respondent had taken a decision to cancel the tender since as per its assessment of the prevailing prices, the estimated price received under the open tender was not competitive in the prevailing market situation. In the circumstances all the technically qualified firms including the petitioner were issued intimation that the Earned Money Deposit deposited by them would be returned. It is also stated that the E.M.D was returned to the petitioner by way of Demand Draft dated.12-04-2006, which was dispatched to the petitioner on 15-04-2006. The allegation of the petitioner that the tender was cancelled for the benefit of 3rd parties is denied categorically, characterizing the allegation as a figment of the petitioner's imagination. It is also contended by the 2nd respondent that the answering respondent and the Corporation have an unrestricted right to cancel the process and that the tender process was eschewed for relevant considerations.

The assertions in the counter had not been denied. In the circumstances the impugned proceedings is seen to suffer from no infirmity, warranting interference in this writ petition. The writ petition is without merits and is accordingly dismissed. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

27th NOVEMBER 2006

***TSNR**